IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 17TH NOVEMBER 2006 / 26TH KARTHIKA 1928

WP(C).No. 4644 of 2006(C)

PETITIONER:

V.M. ESMAIL, AGED 28,
S/O. MAJEED, HOUSE NO.36/1623, NEAR ICICI BANK,
EDAPPALLY, KOCHI.

BY ADV. SRI.BABU CHERUKARA
SRI.P.A.SALIM

RESPONDENTS:

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1. THE SECRETARY TO GOVT.MOTOR TRANSPORT
DEPARTMENT, SECRETARIAT, TRIVANDRUM.

2. THE REGIONAL TRANSPORT OFFICER,
REGIONAL TRANSPORT OFFICE, CIVIL STATION,KAKKANAD.

3. P.K. ABDUL RAHUMAN,
GALAXY HOUSE, 36/997, PARAPARAMBU, S.I.U.P. SCHOOL
LANE, DESHABIMANI, KOCHI.

R3 BY ADV. SRI.ANIL XAVIER

GOVERNMENT PLEADER SMT.M.J.RAJASREE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1- PHOTO COPY OF THE RECEIPT NO.7/6837/2006.

EXT.P2- PHOTO COPY OF THE ACKNOWLEDGEMENT WITH REF.NO.685/2006.

EXT.P3- PHOTO COPY OF THE NOTICE DATED 30-1-2006 ISSUED BY THE SECOND RESPONDENT.

EXT.P4- PHOTO COPY OF THE REQUEST DATED 14-2-2006 BY THE PETITIONER.

Thottathil B. Radhakrishnan, J.

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W.P.(C)No.4644 of 2006

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Dated this the 17th day of November, 2006.

JUDGMENT

Petitioner applied under Rule 95 of the Kerala Motor Vehicles Rules, 1989, hereinafter referred to as the "Rules", for reservation of fancy registration number KL-07/AZ-9999. In terms of the said Rules, Ext.P3 notice was served on seven competitors, requesting them to appear before the second respondent on 14-2-2006 at 10.30 a.m. to participate in the auction.

2. According to the writ petitioner, he presented himself at 10 a.m. and remained there till 11.30 a.m., but the auction did not take place, as scheduled, at 10.30 a.m. He contends that he got information that the auction was held by 12 noon and immediately, he made Ext.P4 complaint. He accordingly seeks that the allotment of the said fancy number to the third respondent be set aside.

3. The second respondent has filed a counter affidavit stating that on 14-2-2006, there were 12 auctions for registration of different fancy numbers and regarding the fancy number in question, there were seven applicants, including the petitioner and the third respondent. He has averred that the auction could start only at 11.45 a.m. as he had to attend the monthly conference of the Regional Transport Officers and Joint Regional Transport Officers convened by the Deputy Transport Commissioner on that day and that those, who had to participate in the auction were informed of the same. According to him, he was in the office till 10.50 a.m. and went to the office of the Deputy Commissioner and returned at 11.45 a.m. He has specifically stated in the counter affidavit that the auctions were taken up and held after his return from the office of the Deputy Transport Commissioner. The auction in which the petitioner was interested was the fourth in the row and after the earlier three auctions were conducted, the applicants for registration number KL-07/AZ 9999 were called to the cabin and among the

seven to whom Ext.P3 is addressed, five had either appeared or were represented. Their credentials were cross checked and in the absence of the petitioner and Sri.V.E.Basheer, their names were called out. It is the further case of the second respondent that the auction was held and confirmed in the name of the third respondent for Rs.7,500/-.

4. No reply affidavit is filed by the petitioner.

5. I have also perused the file.

6. Among the seven persons, who had applied, five had participated in the auction. Petitioner's complaint is that though he reached at the time fixed in Ext.P3, the auction was not conducted. A reading of Ext.P4, the complaint made by him on 14-2-2006, would show that he attended the office of the second respondent at 10 a.m., waited there till 11.30 a.m. and left thinking that the auction will not be conducted because of the absence of the second respondent in

office. Though in the writ petition he puts up a case that he reported his presence to the Public Relations Officer and left at 11.40 a.m., he had not stated so in Ext.P4. However, even while filing Ext.P4, he was quite aware that only he and another had not participated. This is clear from a reading of Ext.P4. Ext.P4 also is an admission by him that the auction was, as a matter of fact, conducted on 14-2-2006. Ext.P3 contains the request to the applicants to appear at 10.30 a.m. Going by the counter affidavit, twelve fancy registration numbers were to be put to auction on that day. It is not to be understood that all the auctions will commence at 10.30 a.m. The categoric statement of the second respondent is that he was involved in a meeting of the R.T.Os and Joint R.T.Os convened by the Deputy Transport Commissioner. The minutes regarding the auction, which form part of the file, shows that out of the five applicants, who had participated, Sri.M.R.Sudheesh and Sri.K.J.Wilson withdrew after quoting upto Rs.3,250/- and Rs.3,500/- respectively. Sri.V.E.Basheer carried the competition

upto Rs.6,000/-. M/s.Kerala Cars Private Limited quoted Rs.6,500/- but withdrew after the third respondent quoted Rs.7,000/-. All those who had participated in the auction had signed the minutes.

Having regard to what is aforesaid, I do not find any legal infirmity, malice or mala fides in the impugned auction. This writ petition fails. The same is dismissed.

Thottathil B.Radhakrishnan,
Judge.

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